

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATRICIA J. BARRY, in propria
persona and MICHELLE
FOTINOS,

Plaintiffs,

v.

BETH LABSON-FREEMAN, et al.

Defendants.

No. C13-4463 TEH

ORDER GRANTING PLAINTIFFS
LEAVE TO AMEND AND
VACATING DEFENDANTS'
MOTION TO DISMISS

Defendants Beth Labson-Freeman, Jonathan Karesh, Robert Foiles, and Clifford Cretan (hereinafter "Judicial Defendants") filed a motion to dismiss on October 18, 2013. Plaintiffs filed an amended complaint on November 12, 2013, more than 21 days after the filing of the motion to dismiss and therefore beyond the time allowed for amendment as of right under Federal Rule of Civil Procedure 15(a)(1)(B). Plaintiffs also failed to file an opposition or statement of non-opposition to Judicial Defendants' motion by the November 1, 2013 deadline.

Nonetheless, the Court finds good cause to excuse Plaintiffs' late filing in this instance. After this case was reassigned to this Court, Judicial Defendants re-noticed their motion, and the docket entry included a revised response deadline of November 12, 2013. The Court did not timely correct this error, and Plaintiffs' counsel apparently relied on that date for calendaring purposes. Judicial Defendants have not opposed Plaintiffs' late filing. The Court therefore grants Plaintiffs leave to amend under Federal Rule of Civil Procedure 15(a)(2).

1 Accordingly, Judicial Defendants' pending motion to dismiss is VACATED as
2 moot. Defendants shall respond to the amended complaint within the time allowed by
3 Federal Rule of Civil Procedure 15(a)(3).

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5 **IT IS SO ORDERED.**

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7 Dated: 11/18/13

